

REMARKS

Claims 1-9, 11, 12 and 21 are pending. Claims 10, 13-20 are withdrawn. Claims 1-3 and 21 are rejected. Claims 4-9, 11 and 12 are objected to. Claims 1 and 4-8 are amended. Claims 22-31 are added. This Response is filed in reply to the Office Action dated June 7, 2004.

Amendments to the claims are not an acquiescence to any of the rejections. Furthermore, silence with regard to any of the Examiner's rejections is not an acquiescence to such rejections. Specifically, silence with regard to Examiner's rejection of a dependent claim, when such claim depends from an independent claim that Applicant considers allowable for reasons provided herein, is not an acquiescence to such rejection of the dependent claim(s), but rather a recognition by Applicant that such previously lodged rejection is moot based on Applicant's remarks and/or amendments relative to the independent claims (that Applicant considers allowable) from which the dependent claim(s) depends. Applicant reserves the option to further prosecute the same or similar claims in the instant or a subsequent application. Upon entry of the Amendment, claims 1-9, 11, 12 and 21-31 are pending in the present application.

The issues of the subject Office Action are presented below with reference to paragraph markings of the Office Action:

With regard to the Office Action, paragraph 1. The Examiner objected to claims 4-9, 11 and 12 under 35 U.S.C. §1.75(c) as being in improper form because a multiple dependent claims does not refer back in the alternative form only.

With regard to the Office Action, paragraphs 2 and 3. The Examiner rejected claims 1-4 and 21 under 35 U.S.C. §102(b) as being anticipated by Miller, U.S. Patent Ser. No. 4,048,030 (referred to hereinafter as Miller).

Applicant notes that while the Examiner indicates that claims 1-9, 11, 12 and 21 are pending, the Examiner did not indicate that the Restriction Requirement dated February 17, 2004 is made final, nor did the Examiner indicate that Applicant's remarks in the response

to the Restriction Requirement filed March 11, 2002 were considered. However, in order to move prosecution forward, the listing of claims provided herein indicates claims 10 and 13-20 as being withdrawn. New claims 22-30 have been added, which overcome the Examiner's assertion of separate claim groupings.

Applicant amends claims 4-8 to refer back in alternative form. In addition, claim 4 has been amended to remove the alternative recitation of "preferably 100 m/hr or less". Claim 31 has been added to recite the limitation removed from claim 4. Applicant respectfully suggests that these amendments overcome the Examiner's objection to claims 4-9, 11 and 12. Further, Applicant traverses the Examiner's rejections under 35 U.S.C. §102(b), and respectfully requests reconsideration in view of the amendments and remarks.

Miller (U.S. 4,048,030) is characterized (Miller column 2, line 56 – 63, and claim 1) "in that in the interior of the electrolytic cell particles are located ... which are prevented by gratings, .. from emerging from the electrolytic cell". The particles in Miller patent are aimed to "mechanically cleaning of the electrodes" (column 2, lines 44-45) which is Millers' solution to the problem of (column 1 line 51 – column 2 line 7) "for example, in the case of the use of consumable aluminum, iron, copper or silver electrodes, for the introduction of aluminum, iron, copper or silver ions into the water to be treated, there is the disadvantage that the metal electrodes used for this purposed **have to be cleaned or even completely replaced after only a few hours of operation**, because a coherent oxide film (oxide crust) is formed on a surface and which interferes with further electrolytic treatment of the water. Thus, for example, in the case of the use of an aluminum anode the aluminum oxide film insulates the surface of the anode from the surroundings so that higher and higher voltages for electrolysis are necessary and which lead to the formation of more and more oxygen instead of aluminum ions. In the case of the use of an iron anode an iron oxide film coating is also formed **within a few hours**. This film is admittedly a comparatively good electrical conductor but further electrolysis takes place more and more on the iron oxide film surface with the formation of more and more oxygen instead of iron ions. In the case of the use of a

copper or silver anode there is also the formation of an undesired oxide film coating, which prevents the formation of copper and silver ions during electrolysis."

In a complete contradiction to Miller, the Applicant's device makes no use of consumable electrodes, and needs no cleaning, maintenance or replacement of electrodes, not within hours (as stated by Miller) nor within days. Applicant's device can work several months without electrode maintenance. Further more since no particles are located in the cell, there is no need in a porous membrane, as suggested by Miller (column 4 lines 9-14), for mechanically protecting the titanium electrodes from impingement of the particles, and there is no need of gratings (Miller column 2 line 58) for preventing escape of particles from the cell.

Accordingly, the problems indicated by Miller, and which for their elimination cumbersome mechanical arrangements and constructions should be provided, are solved by Applicant's use of a catalytic coated titanium anode and a steel made cathode, as recited in amended claim 1 and new claim 22. No anode and cathode compartments are required, neither membranes nor consumable electrodes should be used, and thus the device and the method as recited in Applicant's amended claims are simple and economic. Since Miller does not disclose the use of "a steel made cathode and an anode made of titanium coated with a catalytic coating" in an electrolytic cell for the treatment of aqueous medium, Miller does not anticipate Applicant's independent claims 1 and 22.

Reconsideration of the rejection of independent claim 1 under 35 U.S.C. 102(b) as being anticipated by Miller and allowance of independent claim 1 and new claim 22 is respectfully requested. Claims 2-9, 11, 12, 21 and 31 depend from independent claim 1, and claims 23-30 depend from independent claim 22 and these dependent claims are deemed allowable at least by dependency.

CONCLUSION

Based on the above amendments and remarks, it is respectfully submitted that the claims and thus this application are in condition for allowance. Accordingly, allowance is requested. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicant's attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned at (617) 832-1175.

Respectfully submitted,



Robert W. Gauthier, Reg. No. 35,153
Attorney for Applicants
Tel. No. (617) 832-1175
Fax. No. (617) 832-7000

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Customer No: 25181
Patent Group
Foley Hoag, LLP
155 Seaport Blvd.
Boston, MA 02210-2600